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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,939	06/15/2004	Paul Joseph McMahon		1274

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Tualatin, OR 97062

EXAMINER

ALHIJA, SAIFA

ART UNIT	PAPER NUMBER
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2128

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/800,939	Applicant(s) MCMAHON, PAUL JOSEPH	
	Examiner Saif A. Alhija	Art Unit 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claim 2 has been presented for examination.

Claim 1 has been cancelled.

Response to Arguments

2. Applicant's arguments filed 16 October 2006 have been fully considered but they are not persuasive.

i) The Drawings objection is maintained. See below.

ii) The Abstract objection is withdrawn following Applicants amendment. However, following Applicants amendment an additional ^{to th} Abstract objection is provided below.

iii) The specification objection is maintained since Applicants amendment does not comport to proper U.S. practice. See below.

iv) The 101 rejection is withdrawn following Applicants amendment.

v) A Claim Objection has been provided following Applicants amendment. See below.

vi) The previous 112 rejections have been withdrawn following Applicants amendment.

However, following Applicants amendment an additional 112 rejection has been provided below.

vii) Applicant argues that the cited art does not teach:

The cited art does not teach displaying a graph based on per capita income and income classes with letter designations and without regards to income counts within a range. In contrast, it merely represents family household income and income counts within a range.

The Examiner notes that the claim does not contain the limitation "without regards to income counts within a range." It is also noted that it is unclear what is meant by this apparent negative limitation. Further, Applicants have acknowledged that the references teach representing family household income and income counts within a range. There does not appear to be a functional, conceptual, or patentable distinction between the claim as recited and the provided references. The

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references teach classifying income statistics into classes as well as displaying a graph representing the income classes.

viii) Applicants have not provided legal authority for the position^S taken in the Remarks. *af.*

Applicant's arguments are not persuasive because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant's arguments are not persuasive because they do not clearly point out the patentable novelty, which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

ix) Additional references have been provided following Applicants amendment.

Abstract Objection

3. i) The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

ii) The abstract of the disclosure is objected to because it contains legal phraseology, specifically "means for". Correction is required. See MPEP § 608.01(b).

Claim Objection

4. **Claim 2 is objected** to because of the following informalities: The claim recites "an graph" rather than "a graph". Appropriate correction is required.

Drawings Objection

5. The drawings are objected to because the figure labels are handwritten and in the case of Figure 1 unintelligible. The Figures also represent prior art. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of

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the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency.

Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification Objection

6. The disclosure is objected to because of the following informalities: The specification does not contain a background, brief description of figures, etc. The specification does not comport to proper U.S. practice. See MPEP 608.01. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. **Claim 2 is rejected** under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has not described his specific methodology of displaying the resultant graph. Applicant further has not indicated the difference between wealthy and extremely wealthy for example. This appears to be an arbitrary classification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. **Claim 2 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

i) Claim 2 recites, “displaying the graph based on a per capita income for the plurality of distinct income classes.” It is unclear what is meant by this phrase. Is the graph meant to display per capita income designations or income classes or both? It is unclear if there are two distinct levels and representations to display, the two representations being the per capita income and the income classes. The Figures provided only show a single representation. Therefore the claim is rendered vague and indefinite.

ii) Claim 2 recites the limitation “the graph.” There is insufficient antecedent basis for this limitation in the claim. This limitation lacks antecedent basis ~~since a graph is only mentioned in the preamble and therefore not afforded patentable weight.~~

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iii) Claim 2 contains no positive steps linking the classification of incomes in the first limitation with the displaying of the graph in the second limitation. These limitations appear to be distinct and separate.

Appropriate correction is required.

Claim Interpretation

9. Claim 2 is interpreted to recite a method of identifying and standardizing real estate location quality utilizing economic attributes of specific locations and providing a graphical representation of identified locations. The limitation following “for” in Claim 2 is not afforded patentable weight since it is an intended use.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. **Claim 2 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Reynolds “An Introduction to Geographical Information Systems”, hereafter referred to as Reynolds.**

11. **Claim 2 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by “Per Capita Income by County West Virginia 1989” hereafter referred to as VA.**

12. **Claim 2 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by “Per Capita Income in 1999”, hereafter referred to as CA.**

13. **Claim 2 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by “Per Capita Income in micropolitan and noncore counties, 2001”, hereafter referred to as USA.**

Regarding Claim 2:

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The references disclose A method for displaying an graph based on per capita income demographics comprising:

classifying national income statistics into a plurality of distinct income classes designated as letters; and

displaying the graph based on a per capita income for the plurality of distinct income classes.

(Reynolds. Page 6, Section E. Figure 4) (VA, CA, and USA. See Figure)

14. Claim 2 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Applicants own admission.

Regarding Claim 2:

Applicants own admission discloses A method for displaying an graph based on per capita income demographics comprising:

classifying national income statistics into a plurality of distinct income classes designated as letters; and

displaying the graph based on a per capita income for the plurality of distinct income classes.

(Last Paragraph of specification of the instant application reproduced below)

BEST KNOWN PRIOR ART RELATED TO INVENTION:

While the commercial real estate industry has often (but not always) referred to neighborhoods as either "A", "B" or "C", that reference has never been definitively quantified into a detailed, defined, and universally recognizable paradigm that would allow for accurate graphic geographic representation of ever important attributes (such as economics and certain other demographic issues) onto a map that can be quickly understood and distributed. I have checked computer search engines, CCIM (the world's largest commercial real estate brokerage network), USPTO's search engine, and the larger real estate Internet venues, including Loopnet. - And have found nothing. "Submarket Analyst", is the first definitive area-quality determination paradigm with an effective mapping and distribution system for real estate, and the first to use a well-structured area classification scheme (Grades A+ through C-) that realtors understand. This new method of doing business will take the guesswork out of the very important factor in real estate - the quality (past and present) of a remote property's location.

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15. Claim 2 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Morimoto et al. “Region Calculation Method, Spatial Data Mining Apparatus, Geographical Information Display Apparatus, Spatial Data Mining System and Storage Medium”, U.S. Patent No. 7,010,564, hereafter referred to as Morimoto.

Regarding Claim 2:

Morimoto discloses A method for displaying an graph based on per capita income demographics comprising:

classifying national income statistics into a plurality of distinct income classes designated as letters; and

displaying the graph based on a per capita income for the plurality of distinct income classes.

(Column 1, Lines 15 – Column 2, Line 59. Figures 3A and 3B)

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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17. All Claims are rejected.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saif A. Alhija whose telephone number is (571) 272-8635. The examiner can normally be reached on M-F, 11:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on (571) 272-2279. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAA

December 9, 2006

HUGH JONES Ph.D.
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